



House of Representatives

File No. 804

General Assembly

January Session, 2001

(Reprint of File No. 466)

Substitute House Bill No. 5426
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 24, 2001

AN ACT CONCERNING STANDARDIZED INFORMED AUTOPSY CONSENT.

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 19a-286 of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) Whenever any person dies and no postmortem examination or
4 autopsy has been ordered pursuant to subsection (b) of section 19a-
5 406, no physician shall conduct or assist in conducting any
6 postmortem examination or autopsy upon the body of such deceased
7 person without first obtaining the consent of whichever one of the
8 following persons, eighteen years of age or older, assumes custody of
9 the body for the purposes of burial: Father, mother, husband, wife,
10 child, guardian, next of kin, friend, a person designated by the
11 deceased person in accordance with section 45a-318 or any person
12 charged by law with the responsibility for burial. If two or more
13 persons assume custody of the body, consent of one of them shall be
14 deemed sufficient. [Any] Prior to January 1, 2002, any such consent
15 may be in writing or may be given by telegram, and any telegram

16 purporting to have been sent by a person authorized to give such
17 consent shall be conclusively presumed to have been sent by such
18 person, or may be given by telephone, provided a record of any such
19 consent by telephone shall be kept by such physician for not less than
20 three years. On and after January 1, 2002, such consent shall be made
21 pursuant to subsection (c) of this section, provided such consent may
22 be communicated in person, by telephone, electronically, by mail or by
23 courier. If the physician who is to conduct or assist in conducting any
24 postmortem examination or autopsy, after due inquiry and diligence,
25 is unable to find any person authorized to give consent as provided for
26 [herein] in this subsection, such postmortem examination or autopsy
27 may be made by such physician without such consent but only after a
28 reasonable time, which shall not be less than twelve hours nor more
29 than forty-eight hours, has elapsed. Any person violating any
30 provision of this subsection or subsection (b) of this section shall be
31 fined not more than five hundred dollars.

32 (b) Any person authorized to consent to an autopsy under
33 subsection (a) of this section may require that if an autopsy is
34 performed it be performed by, or attended by, a physician who is not
35 affiliated with the institution where the deceased person died. The
36 physician seeking consent to an autopsy shall inform the person
37 authorized to give consent of the right to request performance or
38 attendance by a nonaffiliated physician, provided the person
39 requesting such performance or attendance by a nonaffiliated
40 physician shall be responsible for any additional costs incurred by
41 reason of such performance or attendance. Such information shall be
42 given orally and, on or after the date on which the minimum
43 requirements for an informed autopsy consent form required by
44 subsection (c) of this section is made available by the Commissioner of
45 Public Health, shall be included in [any written consent form] the
46 documented and witnessed consent developed pursuant to
47 subdivision (3) of subsection (c) of this section.

48 (c) Not later than January 1, 2002, the Commissioner of Public
49 Health, in consultation with the Chief Medical Examiner, shall develop

50 minimum requirements for an informed autopsy consent form that: (1)
51 Includes clear information naming the institution and department that
52 will perform the autopsy; (2) provides the family member or other
53 person who assumes custody of the body of the deceased person as
54 provided in subsection (a) of this section with an opportunity to place
55 any restrictions or limitations on the autopsy or to express any
56 concerns that such family member or other person may have; and (3)
57 provides for documented and witnessed consent. Such minimum
58 requirements shall include procedures for the oral communication of
59 the information required by subdivisions (1) to (3), inclusive, of this
60 subsection, including communication by telephone, as provided in
61 subsections (a) and (b) of this section. Such minimum requirements
62 shall not be deemed to be regulations, as defined in section 4-166.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Potential Minimal Revenue Gain

Affected Agencies: Department of Public Health, Office of the Chief Medical Examiner

Municipal Impact: None

Explanation**State Impact:**

It is anticipated that the Department of Public Health (DPH) will be able to develop minimum requirements for informed autopsy consent within its anticipated budgetary resources. The Office of the Chief Medical Examiner will incur no additional costs in the course of consulting with the department.

A minimal revenue gain may result to the extent that fines are imposed upon: (1) physicians failing to inform persons giving consent to an autopsy about their right to request the participation of a nonaffiliated physician, or (2) persons failing to pay a nonaffiliated physician for his or her attendance at an autopsy. A fine of up to \$500 may be imposed.

House "A" clarifies the original bill by reinstating the ability of a friend who has assumed custody of a deceased person to give consent to an autopsy. It allows persons other than family members who assume custody of the body to place restrictions or limitations on the autopsy or to express concerns they may have. And it requires DPH to

adopt minimum requirements for an informed autopsy consent form instead of criteria for informed autopsy consent. No fiscal impact is associated with these changes.

OLR Amended Bill Analysis

sHB 5426 (as amended by House "A")*

AN ACT CONCERNING STANDARDIZED INFORMED AUTOPSY CONSENT.**SUMMARY:**

Unless the Chief Medical Examiner's Office performs it, the law prohibits a physician from performing an autopsy without the consent of the person who assumes custody of the body. Beginning January 1, 2002, this bill requires that consent to be documented and witnessed according to minimum requirements for an informed consent form the Department of Public Health (DPH) commissioner develops in consultation with the chief medical examiner.

These requirements must also provide for (1) giving the deceased's family, friend, or other person he designates in writing before a notary or court officer to assume custody of his body an opportunity to limit the autopsy or express their concerns; (2) clearly naming the institution and department that will perform the autopsy; and (3) oral consent. The bill specifies that these minimum requirements are not state regulations.

The bill specifies that, after December 31, 2001, consent can be communicated in person; by mail, telephone, or courier; or electronically, as long as it is witnessed and documented. Currently, consent may be given in writing or by telegram or telephone; it need not be witnessed. If it is by telephone, the physician must keep a record of it for at least three years. The bill makes no similar provision for consent granted after December 31, 2001.

The law allows the consenting person to require a physician who is not affiliated with the institution where the deceased died to perform or attend the autopsy. The bill makes that person responsible for any extra costs this involves. And it requires the physician seeking consent for the autopsy to convey this responsibility orally and, after the DPH commissioner develops the minimum requirements, on consent forms. The bill subjects anyone who fails to provide the proper information

for consent and, potentially, anyone who fails to pay a nonaffiliated physician, to a fine of up to \$500.

Finally, the bill adds a person the deceased designated in writing before a court officer to the list of people who can consent to an autopsy.

*House Amendment "A" requires the commissioner to develop minimum requirements for a consent form, rather than criteria for informed consent; requires consent forms based on these minimum requirements to include information on the right to ask that a new nonaffiliated doctor perform the autopsy and the responsibility to pay for it; enables a person or friend designated by the deceased to place restrictions on, or express comments about, the autopsy; and reinstates a deceased's friend as someone who can assume custody of the body.

EFFECTIVE DATE: October 1, 2001

BACKGROUND

Legislative History

The House referred this bill (File 466) to the Public Safety Committee on May 1. That committee reported the bill favorably without change.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0

Public Safety Committee

Joint Favorable Report

Yea 19 Nay 0